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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
In re Application of
Nilsson et al.

Serial No.: 09/915,896

Filed: July 26, 2001

For: **COMMUNICATION SYSTEM
EMPLOYING TRANSMIT MACRO-
DIVERSITY**

Attorney's Docket No: 4015-984

Patent Pending

Group Art Unit: 2684

Confirmation No.: 7300

Raleigh, North Carolina
August 17, 2004

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Technology Center 2600

Sir:

NOTICE OF APPEAL

Applicant hereby appeals from the Examiner's final rejection of claims 1-4, 7, 8, 10, 12-25, 34, 37-43, 46, 51-60, 63, and 64, all pending in the instant application. Enclosed is a check for \$440.00 to cover the \$330 appeal fee and a \$110 fee for a 1-month extension of time. The 1-month extension of time fee is not based on the mailing date of any Advisory Action but rather is based on Examiner Corsaro's statements of last week that he has been unable to timely issue an Advisory Action because the file wrapper for the instant application is unavailable to him because it is being converted from paper format to electronic format. Applicant notes that its After Final amendments were filed in accordance with the two-month rule and that any extension of time fees in this matter therefore would be calculated from the examiner's Advisory Action, if one had been mailed.

08/20/2004 HALI11 00000047 09915896

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02 FC:1251

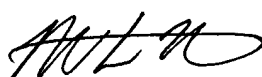
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A more detailed letter explaining these circumstances is attached herewith, but the upshot is that Applicant strongly believes that it would be grossly unfair to charge Applicant for more than a 1-month extension of time. If the Patent Office disagrees with Applicant's extension of time calculation, please charge any additional extension-of-time amounts required for entry of this Notice of Appeal to Deposit Account No. 18-1167.

Respectfully submitted,

Coats & Bennett, P.L.L.C.

By:


Michael D. Murphy
Registration No. 44,958

Telephone: 919-854-1844

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL, ON THE DATE INDICATED ABOVE, POSTAGE PREPAID, IN AN ENVELOPE ADDRESSED TO: **MAIL STOP AF, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.**

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SIGNATURE: 
Deborah Mondello



THE UNITED STATES PATENT AND TRADEMARK OFFICE

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EXPLANATION OF PAYMENT ACCOMPANYING NOTICE OF APPEAL

This letter explains Applicant's basis for calculating the fees properly due for the Notice of Appeal filed concurrently herewith. Specifically, although no Advisory Action was issued for the instant application, Applicant believes that extenuating circumstances at the Patent Office as explained by Examiner Corsaro would make it grossly unfair to charge Applicant for more than a 1-month extension of time for entering Applicant's Notice of Appeal.

In more detail, Applicant complied with the two-month rule for after-final responses by submitting an after-final response for the instant application on 15 April 2004. However, Applicant never received an Advisory Action in response. When the undersigned agent called Examiner Corsaro last week to discuss the instant application's status, Mr. Corsaro stated that he was unaware of Applicant's after-final response and, moreover, that he was unable to do any work on the matter because the

instant application's file wrapper was in the process of being converted from paper format to electronic format.

Simply put, it is the undersigned agent's understanding that Examiner Corsaro would, if he could, send an Advisory Action to Applicant, thereby limiting Applicant's extension of time fees to one month. Since the Patent Office's internal efforts to convert the instant application's file wrapper to a paperless system are preventing the issuance of Advisory Action in the instant application, it seems decidedly unfair to charge Applicant for anything more than a 1-month extension of time.

Respectfully submitted,

Coats & Bennett, P.L.L.C.

By:



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